

State of California
Regional Water Quality Control Board
San Diego Region

EXECUTIVE OFFICER SUMMARY REPORT
August 13, 2003

ITEM: 11

SUBJECT: Administrative Assessment of Civil Liability with Mandatory Minimum Penalties against the City of San Diego for violation of effluent limits established by Order Nos. 95-25 and 2000-90, for a permanent groundwater discharge to San Diego Bay from the San Diego Convention Center. The Regional Board will consider comments received during the public comment period and decide on an order accepting payment of the proposed liability and waiver of hearing. (Tentative Order No. R9-2003-0286) (Rebecca Stewart)

PURPOSE: The Regional Board will decide whether to adopt tentative Order No. R9-2003-0286 that accepts the settlement of civil liability in the amount of \$63,000.

PUBLIC NOTICE: On July 10, 2003, a notice was published in the San Diego Union Tribune informing the public of the proposed enforcement action against the City of San Diego. Public notification for this item was also provided via the Regional Board Agenda Notice for the August 13, 2003 meeting.

DISCUSSION: On July 26, 2003, the Executive Officer issued Complaint No. R9-2003-0279 for Administrative Civil Liability with Mandatory Minimum Penalties in the amount of \$63,000 against the City of San Diego for twenty one violations of effluent limitations contained in Order Nos. 95-25 and 2000-90, for the permanent dewatering discharge from the San Diego Convention Center. The violations were limited to copper and total suspended solids.

This is the third iteration of a complaint issued to the City addressing mandatory minimum penalties for effluent limitation violations at the San Diego Convention Center. The first complaint was withdrawn, at the City's request, until after the issuance of the Convention Center's individual NPDES permit which occurred February 12, 2003. A second complaint was withdrawn after the City requested reconsideration of the assessment of mandatory minimum penalties for effluent toxicity violations. This matter is currently under review by the Office of

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Chief Counsel. As a result, Complaint No. R9-2003-0279 does not address thirty-one effluent toxicity violations reported since January 2000. These violations may yet appear before the Regional Board in the form of a mandatory minimum penalty or administrative civil liability in the future.

On July 25, 2003, the City of San Diego waived its right to a public hearing regarding the violations addressed in Complaint No. R9-2003-0279. If the Regional Board does not adopt the tentative Order, a hearing will be rescheduled for a future Regional Board meeting. To date, no comments concerning this matter have been received.

LEGAL CONCERNS: The State Water Resource Control Board's Office of Chief Counsel is reviewing the appropriateness of assessing minimum mandatory penalties contained in Water Code Section 13385 to effluent toxicity violations of NPDES permits.

SUPPORTING DOCUMENTS:

- (1) Location Map
- (2) Tentative Order No. R9-2003-0286
- (3) Waiver of Hearing Form signed July 25, 2003
- (4) Complaint No. R9-2003-0279

RECOMMENDATION: The adoption of tentative Order No. R9-2003-0286 is recommended.